

HOUSE BILL REPORT

ESHB 2938

As Passed House:
February 19, 2008

Title: An act relating to clarifying annexation procedures between cities and fire districts.

Brief Description: Clarifying annexation procedures between cities and fire districts.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Simpson, Schindler, Wood, Hankins and VanDeWege).

Brief History:

Committee Activity:

Local Government: 1/29/08, 2/5/08 [DPS].

Floor Activity:

Passed House: 2/19/08, 94-1.

Brief Summary of Engrossed Substitute Bill

- Establishes new employee notification requirements for cities, towns, and fire protection districts that may be affected by the annexation or incorporation of territory within a fire protection district.
- Modifies transfer provisions for fire protection district employees affected by an annexation or incorporation.
- Requires cities and towns to make legislative findings regarding the likely effects that an annexation and associated asset transfers may have upon the safety of residents within and outside the proposed annexation area.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Eddy, Nelson and Schmick.

Staff: Ethan Moreno (786-7386).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

City Governance - General Organization

Cities are classified according to their population at the time of organization or reorganization. In addition to first class, second class, and town classifications, cities and towns may also organize under the optional municipal code, an alternative form of classification that provides "code" cities with broad authority over matters of local control.

Special Purpose Districts

Statute provides for the establishment, management, operation, and funding of numerous special purpose districts. Examples include fire protection districts, districts charged with providing fire prevention, suppression, and emergency medical services to protect life and property within jurisdictional boundaries.

Annexation of Fire Protection District Territory/Transfers of Employees

Provisions governing the annexation of fire protection districts (fire districts or districts) by cities or towns are prescribed in statute. In addition to establishing requirements for the transfer of fire district assets to the annexing entity, statute sets forth provisions for transferring employees of wholly or partially annexed districts.

If a fire district is wholly or partially annexed to or incorporated into a city, code city or town, any district employee who meets specified criteria and requirements may transfer his or her employment to the civil service system of the annexing city or town fire department.

Employees that are eligible to participate in this transfer scheme must:

- at the time of annexation or incorporation be employed exclusively or principally in performing the powers, duties, and functions that are to be performed by the annexing city or town fire department;
- be separated from the employ of the district. This separation must be a direct consequence of the annexation or incorporation; and
- be able to perform the duties and meet the minimum requirements of the position to be filled.

Transferred employees have certain rights established in statute. Transferred employees are placed on probation for the same period as new employees of the fire department of the annexing city or town. If, however, the transferred employee completed a previous probationary period with the district, he or she may only be terminated during the city or town probationary period for:

- failure to adequately perform assigned duties;
- not meeting the minimum qualifications of the position; or
- behavior that would otherwise be subject to disciplinary action.

Additional provisions for transferred employees establish rights pertaining to:

- eligibility for promotions;
- equality of compensation; and

- accrual of benefits and seniority.

As many of the transferring employees must be placed upon the payroll of the fire department of the annexing city or town as determined needed by the department. These employees must be taken in order of seniority and the remaining employees must head the list for employment in the civil service system in order of their seniority. Employees who are not immediately hired by the annexing city or town must be placed on a reemployment list for a period of fewer than three years unless a longer period is negotiated in accordance with statutory requirements.

Summary of Engrossed Substitute Bill:

New employee notification requirements are established for cities, towns, and fire districts that may be affected by the annexation or incorporation of fire district territory. If any portion of a fire district is proposed for annexation to or incorporation into a city, code city, or town, the fire district and the city or town must inform district employees about hires, separations, terminations, and other changes in employment that are a direct consequence of annexation or incorporation.

Provisions pertaining to the rights and benefits of transferred employees, and fire department discretion in the hiring of transferred employees, are replaced with new provisions directing transfers. Upon transfer, unless an agreement for different terms is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions, an employee is entitled to the rights, benefits, and privileges to which he or she would have been entitled as an employee of the district, including rights to:

compensation at least equal to the level at the time of transfer; retirement, vacation, sick leave, and any other accrued benefit; promotion and service time accrual; and the length or terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

Additionally, all transfers of eligible employees must be made in order of seniority.

Annexations - City and Town Legislative Findings

Cities and towns, code or non-code, annexing territory under general annexation provisions must, prior to completing the annexation, make legislative findings regarding the likely effects that the annexation and any associated asset transfers may have upon the safety of residents within and outside the proposed annexation area. The findings must address, but are not limited to addressing, the provision of fire protection and emergency medical services within and outside the proposed annexation area.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Fire districts have been working with cities to develop fair annexation outcomes. Cities and districts need to discuss the provision of fire services that affect the annexed and non-annexed areas. This bill is an attempt to ensure that cities and fire districts are on an equal footing during annexation discussions. Once the footing has been equalized, this bill requires cities and districts to negotiate service agreements for territory within and outside of the annexation. If an agreement is not reached, this bill requires the financial and service provisions that preceded the annexation to continue. This bill protects citizens equally, protects jobs, and provides other benefits. In some cases, districts can provide better fire protection services than cities.

(Opposed) Cities are willing to discuss governance transition issues with counties and special purpose districts. Cities are very concerned about the amendment to the GMA's urban service provision language that is in the bill. Service agreements are not always attainable. As proposed, this bill would decrease fire protection services. Response times in recently-annexed areas have decreased. Volunteer departments are staffed by good people, but they have slower response times. This bill would not be favorable to district residents that have been financing the accumulation of district assets.

Persons Testifying: (In support) Ryan Spiller, Washington Fire Commissioners; and Ed Widdis, Snohomish County Fire District.

(Opposed) Dave Williams, Association of Washington Cities; and Dave Zabell, City of Yakima.

Persons Signed In To Testify But Not Testifying: Mike Matlock, City of Tumwater; and Michael Morales, City of Yakima.